

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3353 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

NATIONAL INSURANCE CO LTD.

Versus

SHAMJIBHAI MOHANBHAI PRAJAPATI

Appearance:

DAKSHESH MEHTA for Petitioner
MR KV SHELAT for Respondent No. 1
NOTICE SERVED for Respondent No. 2
NOTICE UNSERVED for Respondent No. 3

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 16/04/2001

ORAL JUDGEMENT

Heard Mr. D.B.Mehta learned advocate for the
appellant and Mr. M.J.Shelat learned advocate for Mr.

K.V.Shelat learned advocate on behalf of respondent no.1. Respondent nos. 2 and 3 are served. By consent of the parties, the appeal is taken up for final hearing.

1. This is an appeal under Section 173 of the Motor Vehicle Act, 1988 (for short "the Act") at the instance of original opponent no.3 - insurer of the offending vehicle which was involved in the accident in question.

2. The appellant herein challenges the order passed by the M.A.C.Tribunal (Aux.), Ahmedabad Rural in the proceedings of M.A.C. Petition No. 1197/1998 below Exh.3 under Section 140 of the Act.

In the above stated premise, the award passed is in the nature of interim award which is subject to adjustment against the award which may be passed in the main claim petition being M.A.C.Petition No. 1197 of 1998 pending before the M.A.C.Tribunal (Aux.), Ahmedabad Rural.

3. That no useful purpose would be served by keeping the matter pending for final hearing at this stage. In view of the fact that impugned award passed by the M.A.C.Tribunal (Aux.), Ahmedabad Rural being in the nature of interim award is subject to passing of the final award. However, an undertaking of the original claimant shall be taken so that decision on merits in the matter pending before the Tribunal can be obtained.

The original claimant - respondent no.1 herein shall file an undertaking before the M.A.C.Tribunal (Aux.) Ahmedabad Rural in the proceedings of M.A.C.Petition No. 1197 of 1998 within a period of four weeks that claimant shall not abandoned the claim petition nor shall withdraw or shall permitted to be dismissed for default or for any other cause and the claimant shall obtain the decision on merits in the said claim petition.

On the filing of above stated undertaking by original claimant, the amount deposited by present appellant shall be permitted to be withdrawn by the original claimant on furnishing appropriate surety to the satisfaction of the Tribunal.

4. The amount deposited by the appellant in this Court of Rs. 12,500/- shall be forthwith transmitted to the M.A.C.Tribunal (Aux.), Ahmedabad Rural in the proceedings of M.A.C.Petition No. 1197 of 1998 and appellant shall deposit the remaining amount of the award

passed by the Tribunal under Section 140 of the Act with accrued interest upto the date and the cost in the Tribunal within a period of two weeks hereof.

5. Subject to above stated observation and direction stated hereinabove, appeal stands disposed of as dismissed with no order as to costs.

(A.K.Trivdei, J.)
(vipul)